

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9, 11-13 and 15-19 are pending, Claims 1, 12 and 16 having been amended by way of the present amendment and Claims 10 and 14 having been previously canceled.

In the outstanding Office Action Claims 1-4 and 6-18 were rejected under 35 U.S.C. §102(b) as being anticipated by Marturano et al. (U.S. Patent No. 5,636,230, hereinafter Marturano); and Claims 5 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Marturano in view of Kumar (U.S. Patent No. 6,269,080 B1).

Applicants respectfully request that the Information Disclosure Statement filed on December 30, 2004 be considered by the Examiner and an initialed copy of the respective Form 1449 be returned in the next Office Action.

In reply, the invention defined by amended Claim 1 is directed to a retransmission control method that is carried out by an information delivery apparatus (e.g., a base station) in a mobile communication system (a multicast service providing system). Amended Claim 1 is implemented and executed in the information delivery apparatus (base station) when delivering multicast information to mobile stations (radio terminals within a service area).

Furthermore, Claim 1 has been amended to clarify that the information delivery apparatus determines in accordance with a given standard without receiving a request for retransmission that at least one of the radio terminals receiving the multicast information is predetermined as being the retransmission-permitted terminal permitted for retransmission of the multicast information. Support for the present amendment to Claim 1 is found at least at page 10, lines 30-32, therefore no new matter is added. Thus, it should be clear that in Claim 1, the information delivery apparatus (such as the base station) determines, without receiving a NACK from the radio terminals and in accordance with a given standard (e.g.,

any of the ways of determination such as those shown in Figures 7-11, 12 and 14) that some of the radio terminals (e.g., mobile stations) are predetermined as being the retransmission-permitted terminal.

In contrast, Marturano is directed to a method for eliminating a receiving data unit as a source of excessive resend requests (title). Marturano is directed to a “receiving data unit” and processes used by the receiving data unit to eliminate an excessive number of resend requests (column 3, lines 40-42). Moreover, as explained in Figure 2 of Marturano, a system used by the receiving data unit of Marturano uses the receiving data unit to determine whether a portion of the received data blocks have been inadequately received (column 4, lines 5-7). When this occurs, a resend counter is incremented (column 4, lines 19-20). If the resend counter exceeds a counter limit value, transmission of a resend request is disabled by the receiving data unit (step 213 in figure 2, column 4, lines 52-55).

Further, Marturano describes a receiving data unit (e.g. element 102 or 103 in Figure 1), wherein when the portion of received data blocks has been inadequately received, the resend counter is incremented (see e.g. step 209 in Figure 2). If the resend counter exceeds a counter limit value, transmission of the resend request is disabled by the receiving data unit (step 213 in Figure 2). Thus, the basic feature of Marturano is to rely on the retransmission of resend requests (NACKs).

Comparing amended Claim 1 with Marturano, amended Claim 1, requires that the information delivery apparatus determine in accordance with a given standard without receiving a request for retransmission, that at least one of radio terminals receiving the multicast information is predetermined as being the retransmission-permitted terminal. Marturano operates on a completely different basis, where Marturano requires a reception of a NACK (or transmission request) signal from the radio terminals, which is expressly excluded from the invention defined by amended Claim 1. Accordingly, it is respectfully

submitted that amended Claim 1 patentably defines over the asserted prior art. For substantially the same reasons as discussed above with regard Claim 1, it is respectfully submitted that Claims 2-4 and 6-18, although of differing statutory class and/or scope, also patentably define over Marturano.

With regard to Claim 5, Claim 5 stands rejected over Marturano in view of Kumar. The basis of the Office Action is that Marturano discloses everything in Claim 5 except for the step of grouping radio terminals on the basis of unique information assigned to the radio terminals and determining at least one radio terminal on the basis of the grouping. The outstanding Office Action attempts to cure the deficiency of Marturano by asserting Kumar for the step of grouping terminals and determining at least one terminal based on the grouping.

Assuming *arguendo* that Kumar does disclose the “grouping” features, nevertheless, Kumar does not cure the deficiencies of Marturano as discussed above with regard to Claim 1. Moreover, Kumar does not disclose or suggest determining by an information delivery apparatus, in accordance with a given standard without receiving a request for retransmission from the mobile stations, that some of the mobile stations receiving the multicast information are predetermined as being the retransmission-permitted terminals. Accordingly, no matter how Kumar is combined with Marturano, the combination does not teach or suggest the invention defined by Claim 5. For substantially the same reasons as discussed above with regard to Claim 5, it is respectfully submitted that Claim 19 also patentably defines over Marturano in view of Kumar.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-19 as amended, patentably defines over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
BDL:aif:ivh

I:\ATTY\BDL\206006US\206006US-AM3.DOC